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THE ESSENCE OF THE CONCEPT OF «CORRUPTION»: LEGAL AND DOCTRINAL ASPECTS

The article is devoted to an important and relevant topic - the characteristics of the legal and doctrinal aspects of the formation of the concept of «corruption». The author emphasizes that the study of the concept should begin with semantic analysis. The existing legislative concept of corruption is highlighted and suggestions for its improvement are made. It was also found that each of sciences fills it with its own specific content. Formulating a universal definition of corruption is an extremely difficult, but at the same time important task. After all, the delineation and unification of concepts is the key to the implementation of the principle of legal certainty, which in turn is part of the constitutional principle of the rule of law.

Key words: *corruption, legal aspect, doctrinal aspect, corruption criminal offense, essence of concept.*

О. С. Бондаренко. Сутність поняття «корупція»: легальний та доктринальний аспекти

Стаття присвячена важливій та актуальній темі – характеристиці легального та доктринального аспектів формування поняття «корупція». Автор наголошує, що вивчення концепції варто починати із семантичного аналізу. Наукові джерела розрізняють два можливі підходи до походження слова «корупція». Обидва наполягають на своєму давньоримському походженні. Відповідно до першого підходу «корупція» є поєднанням латинських слів corruptio та onis, тому похідна словесна фраза corrumpere, яка є сполученням слів com (разом) та rumpere (ламати), а згідно з іншим підходом слово «корупція» походить від слова corruptio, яке означало підкуп, продажність посадових осіб органів публічної влади, громадсько-політичних діячів.

Водночас представники обох груп є одностайними стосовно негативного значення корупції, адже фактично слово означало спотворювати, спокушати, підкуповувати. На практиці виділяють два основні підходи до побудови юридичного поняття. Перший – це доктринальний, або науковий, заснований на дослідженнях вчених та фахівців у певній галузі. Другий – офіційний, або легальний, заснований на нормативних актах, міжнародних

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документах та інших джерелах, що мають юридичну силу. Існування легального підходу є вираженням принципів верховенства права, законності та юридичної визначеності.

Визначення корупції сьогодні закріплено в частині 1 п. 1. 1 Закону України «Про запобігання корупції». Якщо буквально аналізувати це визначення, то справляється враження, що корупцією є лише діяння, предмет яких – це виключно неправомірна вигода. Однак, звернувшись до міжнародно-правових актів, можна виокремити й такі корупційні діяння, як підкуп національних державних посадових осіб; підкуп іноземних державних посадових осіб і посадових осіб міжурядових організацій; розкрадання, неправомірне привласнення або інше нецільове використання майна держави посадовою особою; зловживання впливом; зловживання службовим становищем тощо. Нині існує колізія між положеннями Закону України «Про запобігання корупції» та Кримінальним кодексом України. Аджe останній фактично трактує корупцію та корупційні кримінальні правопорушення ширше, ніж відповідний закон. Тому існує об'єктивна потреба оновити значення поняття «корупція». Запропоновано з точки зору легального аспекту під корупцією розуміти навмисне порушення дисциплінарних, цивільних, адміністративних та кримінальних справ, спричинене незаконним використанням особи, зазначеної у статті 3 ч. 1 Закону України «Про запобігання корупції», висловити повноваження або пов'язані з ними можливості.

Відносно доктринального аспекту формування поняття «корупція» з'ясовано, що поняття корупції є міждисциплінарним і широко розповсюдженим, оскільки його вивчають не лише професіонали в галузі права, а й соціологія, політологія, економіка, державне управління та психологія. Кожна з цих наук наповнює її своїм специфічним змістом. Формулювання універсального визначення корупції є надзвичайно складним завданням. Нарешті, розмежування та стандартизація термінів є ключем до реалізації принципу правової визначеності, який зі свого боку є частиною конституційного принципу верховенства права. Водночас доведено, що формування єдиного доктринального уніфікованого поняття є неможливим у зв'язку з тим, що змістовне наповнення поняття «корупція» залежить від сфери, де його застосовують.

Ключові слова: *корупція, легальний аспект, доктринальний аспект, корупційне кримінальне правопорушення, сутність поняття.*

The purpose of the article is to characterize the legal and doctrinal aspect of the essence of the concept of «corruption».

Introduction. The problem of corruption and corruption criminal offences is one of the biggest for the modern Ukraine. At the same time, the selection of effective measures to prevent and combat this destructive phenomenon should take place in accordance with clearly and thoroughly formulated measures using effective methods. The formation of such measures and the choice of methods is impossible without clarifying the nature of corruption. In practice, there are two main approaches to the formation of a scientific concept. The first is doctrinal, based on research by scientists and specialists in a particular field. The second – official, legal, based on regulations, international instruments and other sources that have legal force [1, p. 183]. Of course, the basis for defining the essence of the concept is the legal definition. But the doctrinal aspect is also important, because it can contribute to the formation of a legal concept and it's amendment according to social needs. So we propose to focus on legal and doctrinal aspect.

Formulation of the problem. The study of any concept should begin with semantic analysis. Scientific sources distinguish two possible approaches to the origin of the word «corruption». Both of them believe that it has ancient Roman origins. Proponents of the first approach claim that the word «corruption» is a combination of the Latin words «corruptio» and onis. So the derived verbal phrase «corrumpere», which is a combination of the words com (together) and rumpere (break), allows us to understand the etymological implication of «corruption». as an act that changes the state of affairs through the complicity or joint action of two or more persons» [2, p. 341]. The meaning of this word was: to spoil, damage, waste, lead to decline, break, destroy, seduce, bribe, distort, distort, falsify and disgrace.

Proponents of the second approach believe that the word «corruption» comes from the word corruptio, which meant bribery, corrupt officials of public authorities, public and political figures [3, p. 127]. At the same time, representatives of both groups are unanimous about the negative meaning of corruption, because in fact this word meant to distort, seduce, bribe.

Analysis of recent research and publications. Scientists such as M. Melnyk, V. Trepak, A. Savchenko, V. Sukhonos, A. Bereza, V. Solovyov, I. Kushnartov, M. Kamlyk, O. Tereshchuk and othershave studied the nature of corruption.

The existence of a legal approach is a manifestation of the principles of the rule of law, legality and legal certainty. Currently, the definition of corruption is enshrined in Part 1 p. 1 of the Law of Ukraine «On Prevention of Corruption». According to this article, corruption is corruption of the use by a person referred to in part one of Article 3 of the Law of Ukraine «On Prevention of Corruption» of his official powers or related opportunities in order to obtain illegal benefits or accept such benefits or accept the promise / offer of such benefit to himself or others or, accordingly, a promise / offer or unlawful benefit to a person referred to in part one of Article 3 of the above Law, or at his request to other natural or legal persons in order to persuade that person to misuse his official powers or powers. opportunities associated with them [4]. If we literally analyze this definition, we get the impression that corruption is only an act, the subject of which is an exclusively illegal benefit. However, referring to international legal acts, it is possible to single out such corrupt acts as bribery of national state officials; bribery of foreign government officials and officials of intergovernmental organizations; theft, misappropriation or other misuse of property by a public official; abuse of influence; abuse of office, etc. [5]. Moreover, the domestic legislator singles out not only corruption offenses, but also offenses related to corruption. And does not limit the subject of corruption offenses only to illegal burnout, because the subjects of corruption offenses in accordance with Art. 45 of the Criminal Code of Ukraine there are also: someone else's property (Article 191 of the Criminal Code of Ukraine), budget funds included in state and local budgets regardless of the source of their formation in the appropriate amounts (Article 210 of the Criminal Code of Ukraine), firearms (except smooth-bore hunting), ammunition, explosives, explosive devices, radioactive materials (Article 262 of the Criminal Code of Ukraine); narcotic drugs, psychotropic substances, their analogues (Article 308 of the Criminal Code of Ukraine), precursors (Article 312 of the Criminal Code of Ukraine), equipment intended for the manufacture of narcotic drugs, psychotropic substances or their analogues (Article 313 of the Criminal Code of Ukraine), sleeping poppy and hemp , as well as psychotropic substances, their analogues and precursors intended for the production or manufacture of these drugs or substances (Article 320), documents, stamps, seals (Article 357 of the Criminal Code of Ukraine), assets in significant amounts, the legality of which has not been confirmed evidence (Article 368-2 of the Criminal Code of Ukraine), weapons, ammunition,

explosives, other weapons, means of transportation, military and special equipment, other military property (Article 410 of the Criminal Code of Ukraine). It is fair to say that illicit gain is indeed the subject of most corruption offenses, but not the only one.

In light of the above, we believe that the legal definition of the terms «corruption» and «undue advantage» is unjustified because they are related as general and specific. Offering, promising, receiving or providing an improper benefit is a manifestation of corruption. However, it is not the only one, because the acts, the subject of which is illegal profit, are only a certain part of corruption. Such actions are the worst for society, because they undermine the credibility of the state apparatus and generate the idea of the possibility of bribery to achieve the desired result [6, p. 118], however, even in this regard, the content of corruption cannot be limited to these destructive elements alone [7, p. 50]. That is, corruption is a special form of illegal activity that permeates all spheres of public life and has many manifestations, including acts the subject of which is undue advantage [8, p. 236].

In addition, the limited legislative approach to the interpretation of acts that constitute corruption is unclear. Thus, the definition clearly states that corruption is the receipt, acceptance, acceptance of a promise / offer of illegal benefit to oneself or others or, accordingly, a promise / offer or provision of illegal benefit to a person.

The receipt of an improper benefit is the intentional acceptance by an official of funds, benefits, privileges, services, intangible assets or any intangible or non-monetary benefits for the lawful or illegal use of power and / or official authority. An example of obtaining an illegal benefit is the actions of Person 1, the village head of Lozuvat village council of Shpola district of Cherkasy region, who acted intentionally, for selfish reasons, received from an individual entrepreneur Person 3 illegal benefit of 10,000 (ten thousand) hryvnias for granting permission to placement of outdoor advertising and the conclusion of an agreement on the lease of places located in the village. Lozuvatka, Shpola district, Cherkasy region, to accommodate special structures (advertising billboards). Shpola district court of Cherkasy region found Person 1 guilty of committing a criminal offense under Part 3.

Art. 368 of the Criminal Code of Ukraine and sentenced to imprisonment for a term of five years with deprivation of the right to perform the functions of government or local government, to hold in public authorities, local governments, state or municipal enterprises, institutions or organizations positions, related to the performance of organizational-administrative or administrative-economic functions for a period of two years with confiscation of all property belonging to him and deprivation on the basis of Art. 54 of the Criminal Code of Ukraine of the seventh rank of the official of local governments [9].

The terms «offer» and «promise» are evaluative and related, as there are no standardized requirements for determining whether a promise of illicit benefit has occurred or simply an offer. A. Bailov proposes a proposal for improper benefit to consider the obvious determination of the intention to receive a reward in violation of the established procedure. This intention must also be directed at a specific person – the subject of a criminal offense [10, p. 29]. For example, the Boryspil City District Court of the Kyiv Region convicted Person 1 of committing a criminal offense under Part 1 of Art. 369 of the Criminal Code of Ukraine, ie for offering an illegal benefit. Thus, Person 1 intentionally, being in the office of Boryspil International Airport (Terminal D), offered the Head of the First Passport Control Group of the Third Department of Border Service Inspectors of the Boryspil-1 Border Service Department of the 1st Category of the Kyiv State Traffic Police to Person 3 , illegal benefit in the amount of 700 (seven hundred) US dollars for

a positive revision of the decision to refuse to cross the state border of Ukraine and further admission to the territory of Ukraine at the checkpoint «Boryspil», by affixing appropriate marks in his passport document on crossing the state border of Ukraine ‘ride [11].

As for the promise of undue advantage, it is not just a declaration of readiness to provide undue benefit, but a real guarantee that it will be realized. According to A. Savcheno and Y. Shulyak, this form is more specific, as it may involve adjusting the amount, form or nature of the illegal execution, place, time, methods and recipients of future receipt, etc. [12, p. 288]. For example, when patrolled by the patrol police in Vinnytsia was stopped by a suspicious person who fell under the external signs indicated in the orientation. This person was Person 1, who was riding a gray bicycle with a red backpack on his shoulders. After the man was stopped, the platoon inspector of the 1st Company of the 4th Battalion of the Vinnytsia Oblast Patrol Police Department, Senior Police Lieutenant Person 3, asked to introduce himself, stating his personal data, and a patrol police officer later checked the Armor internal base facts of bringing Person 1 to legal responsibility. Having received information that Person 1 has been repeatedly prosecuted, Person 3 in accordance with Art. 34 of the Law of Ukraine «On the National Police» a superficial inspection of the latter was conducted. During the inspection, Person 1 showed the contents of his briefcase, where a screwdriver, an adjustable wrench, an electric shocker with a flashlight, a balaclava, two pairs of cloth gloves and a fomka were found. These things and orientations raised reasonable suspicions in Person 3 that Person 1 was involved in the commission of a criminal offense, which Person 3 reported to Person 1. After that, the latter, acting intentionally, repeatedly, offered the police officer to leave with him in a car from the scene. checks to the place where he will provide Person 3 with funds in the amount of $ 300 for not informing Person 3 of the immediate management, duty and other police officers about the fact of stopping and checking Person 1, as well as discovering the above things, thereby promising providing illegal benefits. For these actions Person 1, Vinnytsia City Court of Vinnytsia region was found guilty of committing a criminal offense under Part 1 of Art. 369 of the Criminal Code of Ukraine and imposed a fine of 500 (five hundred) non-taxable minimum incomes, which amounted to 8,500 (eight thousand five hundred) UAH [13].

The granting of an improper benefit is an act (action or omission) by a person that provides an improper benefit based on the direct or indirect transfer of tangible or intangible assets or the provision to a special entity of benefits, privileges, services or any other intangible or non-monetary nature (the results of which are the subject of improper benefit) for the performance or non-performance of certain actions in the interests of the person providing such improper benefit or third parties [14, p. 263]. An example of this is the actions of Person 2, who acted intentionally, for the purpose of his own illegal enrichment as a result of illegal movement of tobacco products across the state border of Ukraine in the area of responsibility of Person 3, who was a serviceman of a special law enforcement agency. from the staff of the Border Guard Service «Type C» of the Lviv Border Detachment of the Western Regional Department of the State Border Guard Service of Ukraine, provided the latter with an illegal benefit in the amount of 400 US dollars. Person 3 for this remuneration was to disclose official information on the time and location of mobile groups of the Border Guard Service type «C» in the area of the Border Guard Inspectors «Ambukiv» of the Lviv Border Detachment of the Western Regional Department of the State Border Guard Service of Ukraine. products outside the checkpoint across the state border from Ukraine to the Republic of Poland and for failure to take measures to stop its illegal activities. According to the results of the case, the Chervonohrad City Court

of Lviv region, Person 2 was convicted of a criminal offense under Part 1 of Art. 369 of the Criminal Code of Ukraine [15].

Given the above, there is a dissonance between the provisions of the Law of Ukraine «On Prevention of Corruption» and the Criminal Code of Ukraine. After all, the latter actually interprets corruption and corrupt criminal offenses more broadly than the relevant law itself. Therefore, there is an objective need to update the meaning of «corruption». S. Alferov proposes to consider corruption as the use by a person of his official powers and related opportunities for the purpose of obtaining an improper benefit or accepting / demanding a promise / offer of such benefit for himself or other persons at its request to other natural or legal persons in order to persuade that person to illegally use the official powers granted to him and the related opportunities» [16, p. 18]. In our opinion, such a definition does not eliminate the problem of conflict of laws and, again, explains the essence of corruption too narrowly.

Professor Z. Varnaliy notes that the definition of «corruption» requires a clear answer to at least four key questions regarding: the scope of corruption; the essence of the actions that form this phenomenon; the subject of corruption; motivation and purpose of corrupt behavior [17, p. 86].

A. Savchenko suggests two alternative ways to update the legislative concept of «corruption». The first way (in-depth qualitative approach): to fill the current definition of corruption with detailed descriptive categories that would expand and clarify the boundaries of its subject, actions, consequences, etc .; second way (specified quantitative approach): clearly list which violations of criminal, administrative or civil law, as well as disciplinary rules, will lead to corruption. After all, in any case, the concept of «corruption» should be comprehensive, and not gravitate to one or another type of offense, including criminal [18, p. 166].

In our opinion, the concept of «corruption» in the Law of Ukraine «On Prevention of Corruption» should be stated as follows: corruption – intentional violations of disciplinary, civil, administrative, criminal nature, manifested in the illegal use of a person specified in part one of Article 3 of this Law; the official powers granted to it or related opportunities.

As for the essence of the doctrinal aspect, V. Sukhonos proposes to study the content of corruption through an interdisciplinary prism. Because using of cognitive methods inherent in different branches of social science, provide an opportunity to identify a wider range of characteristics, which in turn will contribute more effectively to combating corruption [19, p. 16]. We share the position of the scientist and are convinced that to find out the level of influence of corruption on social, political and economic processes and its role for social development seems possible only with a comprehensive scientific approach. Therefore, we propose to analyze the essence of corruption from the standpoint of sociology, public administration, political science, sociology, economics and law.

First of all, let's look at the sociological understanding of corruption. Thus, the classical sociological tradition does not lead to the understanding of corruption as an independent theoretical problem. According to E. Durkheim, modern society is based on the division of labor. Corruption in this scheme is a parasitic, pathological phenomenon that exploits the shortcomings and omissions of the legal, political and economic system. Corruption can be associated with the activities of groups guided by the motives of illicit profit, groups on the social qualities of outdated, related to socio-profile status, with the fact that the position and monopoly on resources create a system of social dependence – subordination [20, p. 334].

The non-classical sociological tradition places a research emphasis on the identification of the subjective dimension of corruption, translating into the mode of researching practical feeling,

habituation of corruption schemes and defining corruption as a mass strategy in the context of individual and collective experience in conditions of weakness or variability of institutional regulators [21, p. 41].

V. Trepak proposes to recognize corruption as a form of social relations, provides for its analysis as a form of interaction between entities with different amounts of resources within various institutions as regulatory systems. The factor of corrupt relations is the situation related to the problem of limited set of resources of the subject. It can be caused by various factors, both objective, such as the imperfection of the regulatory system, and subjective, such as the lack of the subject for one reason or another desire to act within it, disagreement with it [1, p. 188–189].

T. Khabava calls corruption the social price that society pays for its violated rights and neglected interests, due to the exclusive perception of corruption and unwillingness to resist corruption. This is the price that society pays for its indifference and imposed stereotypes about the inevitability of corruption and the impossibility of realizing one's rights and fulfilling one's responsibilities legally [22, p. 25].

A. Zakalyuk formulates the general (social) concept of corruption as a socially unacceptable and mostly socially dangerous activity of people endowed with power or other public powers and related opportunities, or those who seek to use the latter to obtain any benefits (benefits, services, privileges, etc.) for themselves or others not on the basis of an officially defined procedure (grounds, norms), but on the basis of the realization of personal interest, which leads to the deformation of public relations [23, p. 141].

Regarding the interpretation of corruption by public administration experts, the opinions of these scientists, as well as those of sociological science, also differ. According to one of the most famous researchers of corruption A. Heidenheimer, the concept of «corruption» – the subject of scientific controversy. The classic study of corruption emphasizes the difference in attitudes towards corruption in developing countries, where the concept itself appeared abruptly, almost suddenly – in an era of economic and political transformation, along with collections of laws; and in developed western countries, where the concept has developed gradually, evolutionarily [24, p. 13].

O. Bereza is convinced that corruption in the sphere of public administration really acts as a deterrent to socio-economic reforms; undermines the work of the domestic system of social protection, which is characterized by a large number of different types of financial assistance and benefits, the procedure for applying for which is excessively bureaucratic and which are not supported by budget funding [25, p. 179].

V. Solovyov notes that corruption constantly and actively affects the consciousness of citizens and their personal views, forms selfish immoral values, determines the corruption subculture in society, destroys social relations, reduces resources and undermines trust in the state. It covers the elite, middle and grassroots levels of government, penetrating all spheres and subsystems of public life, violates rights, affects the interests of all social groups and strata of society, affects politics, economics, social sphere, culture, as it has led to corruption, which has become an alternative to moral and ethical norms in Ukraine. A corrupt country is the antithesis of a developed European state [26, p. 30].

According to L. Heveling, corruption is a destructive system of social relations in force in a given territory and the prevailing morality, which are characterized by the use of official powers to obtain material and (or) intangible benefits [27, p. 10].

We must agree with the position of A. Novak that from the standpoint of public administration, corruption poses a significant threat to society, and today the scale of its spread is a real threat to national security [28].

Political scientists during the formation of the concept of «corruption» emphasize the role of corruption for political processes in the state. For example, I. Kushnaryov defines corruption as a destructive kind of informal institutions of subversive particular character, which causes illegal use of political resources by self-motivated subjects of power in non-public interests, privatization of public resources in conditions of weakness of formal and constructive informal institutions [29, p. 10–11].

O. Stohova draws a clear correlation between corruption and the establishment of the type of political regime in the state. According to her, corruption is an informal institutional environment of economic, administrative and information resources, in which power elites interact with each other and other structures of society. The nature of the shadow exchange of resources between government and business and the outcome of the struggle between them actually determine the type of political regime in the newly independent and transforming countries. In the transforming political systems, the creation of a corruption network allows to establish a non-competitive political regime that promotes corruption at all levels of the political process [30, p. 169].

Kostenko O. explores the peculiarities of the concept of «corruption» in Ukraine. The author emphasizes that there is a crisis of corruption in our country, namely: it is caused by the crisis of modern Ukrainian society (and not only by the imperfection of criminal justice); able to deepen the crisis of society, having the ability to nullify any political, economic, legal, moral reforms: this is its threat to the national security of Ukraine. The peculiarity of crisis corruption is that society – due to the crisis of the social order – does not produce alternatives to corrupt means of lawful use of power in private interests. Citizens, in order to use the services of the government, have almost nothing left but to resort to corruption. It will be possible to correct the situation when the motivation of citizens to corruption will be eradicated through the development of political culture, and instead the motivation to non-corrupt means of using power in private interests will be formed [31, p. 49–50].

The narrowest definition of corruption is given by D. Ruden, according to him corruption is the behavior of elected officials called to perform state functions (for example, deputies), who deviate from the duties and rights (sometimes mandate) of public office in order to gain personal benefit [32, p. 119]. In our opinion, this meaning is too narrow, because it does not reflect the real essence of corruption as a phenomenon.

We believe that the most complete political definition should be the definition of M. Kamlyk and E. Nevmerzhytsky, according to which corruption is a socio-political phenomenon, the content of which is due to political, economic, social and psychological factors system of negative views, beliefs, attitudes and actions citizens, officials of government institutions, governmental and non-governmental organizations, political parties, public organizations aimed at satisfying personal selfish, group or corporate interests through bribery, abuse of power, granting benefits and advantages against public interests [33, p. 5].

Particular scientific interest is on study of the essence of corruption from the standpoint of psychology. After all, taking into account the psychological characteristics of society and the individual citizen, as well as the mentality of a civil society must be taken into account when developing national anti-corruption measures. Thus, V. Gladyky notes that corruption is a kind of moral perversion (corruption) of a human being; a social phenomenon that exists only in the

assessment of some people of others everywhere the prism of the currently prevailing standard of morality [3, p. 127].

O. Akimov more meaningfully analyzes the concept of «corruption», calling it a psychological and moral phenomenon that cannot exist separately from people – their behavior, activities. The author notes that corruption is a way of thinking that determines the way of life. There are no moral and psychological obstacles that corrupt and mafia circles are not ready to cross, there are no social norms that they would not dare to violate [34, p. 181, 184].

Representatives of psychological science pay special attention to the personality of the corrupt. In particular, the generalization of scientific research R. Garifullin, A. Zhuravlyov, O. Vanovska allows us to outline the following generalized psychological portrait of a corrupt official. It is characterized by: lack of pity for victims of corruption; hidden aggression; communication with a limited number of people (he is very careful when establishing close relationships); cynicism; tolerance for corruption; distorted self-affirmation (through wealth, fame, power, authority); the predominance of material rather than spiritual values; external locus of control; undifferentiated structure of moral behavior; inability to overcome frustration and helplessness in the face of difficulties [35, p. 60].

From the standpoint of economics, corruption is also interpreted differently. The only thing scientists agree on is its detrimental effect on economic processes and economic development of states. Thus, V. Behlytsia and O. Tsypilska call corruption an evidence of chaos typical of the transition state and a «stumbling block» for the modernization of the domestic economy. This has become a hallmark of Ukrainian institutions and has spread to all areas of socio-economic and political activity. Corruption blocks the formation of free competition and open markets; hinders international economic expansion and political integration; hinders domestic economic development [36, p. 137].

A. Voloshenko interprets corruption as one of the most destructive phenomena and factors of a systemic nature that permanently affect all institutions of the state, distorting the basic principles of socio-economic reforms [37, p. 81].

S. Pyasetska-Ustych notes that corruption causes inefficient distribution and expenditure of state resources, financial flows from the point of view of the country's economy; tax losses when tax authorities appropriate part of the taxes; ruin of private enterprises; reduction of investment in production, slowdown in economic growth; inefficient use of the abilities of individuals; growing social inequality; intensification of organized crime; the decline of the authority of the political legitimacy of power [38, p. 19].

L. Pidopryhora describes the peculiarities of corruption in the economy of Ukraine and notes that the latter as a systemic phenomenon in the economy of Ukraine contributes to the shadowing of the public sector of the economy. In the domestic economy, corruption takes the most dangerous forms. The interaction of corrupt bureaucracy, state-monopoly corporations and private-oligarchic holdings leads to the creation and implementation of various shadow schemes, thanks to which corrupt officials, oligarchs, managers of state monopolies steal huge sums of money. Such losses impoverish society and hinder the development of the country's economy [39, p. 31].

From the point of view of jurisprudence, corruption is the subject of research in many areas. In particular, most scholars interpret corruption based on a legal definition. In particular, S. Rogulsky defines the term «corruption» as the illegal acceptance of property and non-property services, goods and benefits by persons authorized to perform public functions, or persons of

the law are equated to them, using their legal status and related opportunities, as well as bribery of these persons by illegally providing them with natural and authorized representatives of legal entities of these goods, services and benefits in order to obtain from persons authorized to perform public functions , or persons equated to them, certain privileges [40, p. 10].

A similar definition is given by O. Tereshchuk, who believes that corruption includes illegal actions of officials aimed at personal enrichment, as well as a stable connection of government officials with the criminal environment and assisting him in carrying out illegal activities for due to the use of powers granted to them by the state [41, p. 14].

M. Melnyk believes that corruption, in general, should be considered as a kind of social corrosion, which erodes and destroys public authorities, the state and society as a whole. In addition, the author emphasizes that corruption is based on such age-old traditions of interaction in society as «service for service», «do ut des» («I give that you give») [42, p. 34].

We believe that it is necessary to support the position of V. Nonik, who distinguishes criminological and criminal legal definition of corruption. Thus, the scientist notes that the criminological significance of corruption is limited only by those aspects of its social and political-economic values that reflect its anti-social, socially dangerous and criminally illegal essence and content. In the criminological sense, corruption is an anti-social, socially dangerous phenomenon that threatens the economic and political security of the country. It permeates branches of government and is a set of criminal offenses committed by officials for personal gain at the expense of the state, commercial and other organizations or citizens. In the criminal egal sense, corruption is a socially dangerous act, the subject of which are officials defined by law, who use official powers with selfish interest and for personal gain [43, p. 42].

There are also comprehensive definitions based on the scientific achievements of several sciences, in particular. E. Khromov, reveals the essence of corruption on the basis of sociology and law. She emphasizes that corruption is characterized by: inseparable ties with the state authorities; one of the subjects of corrupt relations has the legal status of a civil servant authorized to make legally significant decisions; interactive nature of corruption influence on the power system; successful operation not only for personal gain, but also in the collective interests of different groups of people; informal nature of the activities of participants in corruption relations; the presence of a mandatory sign of abuse of power by officials [44, p. 22].

Given the large number of definitions of corruption, Professor M. Melnyk rightly points out that it is impossible to formulate a scientific definition that would universally satisfy different areas of knowledge. Indeed, the term is widely used, and scholars give it a variety of meanings, ranging from reducing corruption to such a corrupt criminal offense as misappropriation, to defining corruption using general wording that does not contain specific features of the offense [45, p. 76].

Conclusions. From the point of view of the legal aspect corruption should be understood as intentional violations of disciplinary, civil, administrative, criminal nature, manifested in the illegal use of the person referred to in part one of Article 3 of the Law of Ukraine «On Prevention of Corruption», his official powers or related opportunities. At the very end we'd like to some up that the concept of corruption is interdisciplinary and widely used, as it is studied not only by experts in the field of law, but also scientists of sociology, political science, economics, public administration and psychology. Each of these sciences fills it with its own specific content. Formulating a universal definition of corruption is an extremely difficult, but at the same time important task. After all, the delineation and unification of concepts is the key to

the implementation of the principle of legal certainty, which in turn is part of the constitutional principle of the rule of law.

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О. С. Бондаренко. Сущность понятия «коррупция»: легальный и доктринальный аспекты

Статья посвящена важной и актуальной теме – характеристике правовых и доктринальных аспектов формирования понятия «коррупция». Автор подчеркивает, что изучение понятия следует начинать с семантического анализа. Охарактеризовано существующее законодательное определение коррупции и внесены предложения по ее совершенствованию. Также было обнаружено, что каждая из наук наполняет понятия «корррупция» своим специфическим содержанием. Сформулировать универсальное определение коррупции – чрезвычайно сложная, но в то же время важная задача. В конце концов, разграничение и объединение понятий – это ключ к реализации принципа правовой определенности, который, в свою очередь, является частью конституционного принципа верховенства права.

Ключевые слова: *коррупция, правовой аспект, доктринальный аспект, коррупционное уголовное правонарушение, сущность понятия.*

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